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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,614	11/04/2003	Daniel James Kinne	9422L	6503
27752	7590	08/23/2006	EXAMINER	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL BUSINESS CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224				CHAN, SING P
ART UNIT		PAPER NUMBER		
		1734		
DATE MAILED: 08/23/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/700,614	KINNE ET AL.	
	Examiner	Art Unit	
	Sing P. Chan	1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10, 13 and 14 is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) 8 and 14 is/are allowed.
- 6) Claim(s) 1-7, 9, 10 and 13 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 February 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____ .

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-7, 9, and 10 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 8-11 of U.S. Patent No. 6,808,586 in view of Buske (U.S. 3,907,628).

The claims of '586 recite an apparatus for applying a sheet material. The apparatus includes a holder for receiving a quantity of sheet material, the holder is disposed on a frame and the frame being movable relative to each other from a first position to a second position, a first and second burnish being disposed in angular relationship to each other, and has a curvilinear surface with the surface being convex relative to the sheet material, a brushing strip for brushing loose particles and considered to be capable of also function as an additional burnish (Col 5, lines 57-60), a

cavity (14), which is disposed above one of the burnish when disposed against a vertical substrate and the burnishes form of any suitable materials, which is considered to include compliant material. (Col 3, line 62 to Col 4, line 11) The claims of '586 are silent as to the burnishes being disposed, which subtend an angle of at least 180° or 270°. However, providing burnishes being disposed, which subtend an angle of at least 180° or 270° is well known and conventional as shown for example by Buske. Buske discloses an apparatus for applying a sheet material. The apparatus includes two burnishes having a generally planer surfaces, (88 and surface adjacent to 88), which subtend an included angle of at least 180° and each of the burnish is parallel to a major axis and whereby the applicator is rotated about the major axis in use that each of the burnish is capable of sequentially contacts the sheet being applied. (Col 6, line 48 to Col 7, lines 17 and Col 8, line 5-13, and Figures 5-7 and 8-10) The burnishes as disclosed by Buske include an extrapolated vertex and offset from the burnishes (Figures 1-4), are of mutually different materials than the presser edges and protuberances (Col 5, line 58-60), subtend an angle of less than 180° opposite the surface of the burnishes and a guide member (12), which allow sheet material to be inserted into a cavity (14) and function as a holder.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide burnishes a generally planer surfaces, which subtend an included angle of at least 180° and each of the burnish is parallel to a major axis and whereby the applicator is rotated about the major axis in use that each of the burnish is capable of sequentially contacts the sheet being applied, include an extrapolated vertex

and offset from the burnishes, are of mutually different materials than the presser edges and protuberances, subtend an angle of less than 180° opposite the surface of the burnishes and a guide member (12), which allow sheet material to be inserted into a cavity (14) and function as a holder as disclosed by Buske in the apparatus of '586 to provide an applicator with presser edge to applying uniform pressure for adhering the sheet material. (See Buske, Col 2, lines 8-12)

3. Claim 13 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 8-11 of U.S. Patent No. 6,808,586 in view of Forselius et al (U.S. 5,544,384).

The claims of '586 recite an apparatus for applying a sheet material. The apparatus includes a holder for receiving a quantity of sheet material, the holder is disposed on a frame and the frame being movable relative to each other from a first position to a second position, a first and second burnish being disposed in angular relationship to each other, and has a curvilinear surface with the surface being convex relative to the sheet material, a brushing strip for brushing loose particles and considered to be capable of also function as an additional burnish (Col 5, lines 57-60), a cavity (14), which is disposed above one of the burnish when disposed against a vertical substrate and the burnishes form of any suitable materials, which is considered to include compliant material. (Col 3, line 62 to Col 4, line 11) The claims of '586 are silent as to the burnishes being jointed together and articulable relative to each other about a hinge. However, providing a hinge for a pair of burnishes is well known and conventional as shown for example by Forselius et al. Forselius et al discloses a wall

corner finishing tool. The tool includes a pair of plastic blades, i.e. burnishes, connected by a living hinge, i.e. vertex, offset from the vertex of the handle, which capable of forming any angle from 90°-270° degree on the outer surface, and the blades or burnishes are capable of being rotated sequentially into contact on a surface. (Col 2, lines 16-46 and Figures 1-5)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a hinge for the pair of burnishes as disclosed by Forselius et al in the apparatus of '586 to provide an apparatus for applying or finishing wall corners in a great range of angles. (See Forselius et al, Col 1, lines 18-20)

Allowable Subject Matter

4. Claims 8 and 14 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sing P. Chan whose telephone number is 571-272-1225. The examiner can normally be reached on Monday-Thursday 7:30AM-11:00AM and 12:00PM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher A. Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1734

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Chan Sung Po
SPC

GKoch
GEORGE KOCH
PRIMARY EXAMINER